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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,288	04/09/2004	Pedro Angel Fernandez	200-66700 (PB040050AF)	1114
.56929	7590	04/05/2006	EXAMINER	
LAW OFFICES OF MARK C. PICKERING P.O. BOX 300 PETALUMA, CA 94953			FORD, JOHN K	
			ART UNIT	PAPER NUMBER
			3753	
DATE MAILED: 04/05/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/821,288	FERNANDEZ ET AL.	
	Examiner	Art Unit	
	John K. Ford	3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01/17/06
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-35 is/are pending in the application.
- 4a) Of the above claim(s) 23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-22, 24-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>04/09/04</u> | 6) <input type="checkbox"/> Other: _____ |

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Applicant's response of January 17, 2006 is acknowledged. Claims 16-22 and 24-35 have been identified as being readable on the elected species. Accordingly, claim 23 is withdrawn here.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 32-35 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The subject matter claimed in claims 32-35 is not supported by the original disclosure. By disclosure, there are three inlet openings 220A and no disclosure of a "top opening." Assuming that this "top opening" is just a confusing renaming of one of openings 220A, then applicant must make it clear that this is the case by changing the claim language to be consistent with the disclosure.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 16, 17, 18, 19, 20, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of DE 19709145, JP 3-250698 and Hawks et al. (USP 6,637,374).

DE '145 (Figures 1,2 and 8-10) shows a heat exchanger/fan assembly mounted entirely on the outside of an electronics cabinet. "Fastening means" 43 are shown in Figure 1 (and in more detail in Figure 7) and appear to accept a bolt that passes through the element 43 and through plate 4 (see Figure 7) on either side of the upper and lower openings 34a and 34b (again, see Figure 7).

JP '698 teaches apertures 24 (probably bolt holes) around air passages 28 and 29 to mount an external heat exchanger on an electronics cabinet. To have mounted the external heat exchanger/fan of DE '145 (shown in Figures 1, 2 and 8-10) to the side panel 4 using a plurality of bolts extending through bolt holes adjacent to the upper and lower air openings would have been obvious to one of ordinary skill in the art.

Finally, Hawks in Figures 1 and 2 shows a piece of air conditioning equipment mounted externally of an enclosed space and teaches flange 35a, gasket 34a and bolt holes 33a at the periphery of the intake and discharge openings 37 and 39 that connect the equipment mounted externally of an enclosed space to the interior of the enclosed space. Like, the system disclosed

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in DE '145 and JP '698, the air from inside the enclosed space is withdrawn from the enclosed space, temperature conditioned and returned to the enclosed space.

To have provide a plurality of bolt holes and a sealing gasket around each of the upper and lower openings shown in DE '145 in Figure 1 to sealingly engage the heat exchanger to the cabinet to advantageously prevent water and unconditioned air from leaking into the cabinet of DE '145 would have been obvious to one of ordinary skill in the art in view of the teaching of JP '698 and Hawks.

Regarding claim 21, intended flow directions in the absence of structure claimed to give these limitations a structural basis do not impart patentability to the underlying apparatus.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 18 above, and further in view of Reinhard.

To have reversed the airflows in DE '145 in favor of the ones shown by Reinhard in Figure 5 would have been obvious to one of ordinary skill in the art since they accomplish the same overall result and to improve cooling at the top of the cabinet assuming that some high dissipation component was located there.

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Claims 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 16 above, and further in view of Koltuniak.

To have added one or both of screens 64 and 70 as shown in Koltuniak to the inlet and outlet apertures in the cabinet of DE '145 to advantageously prevent dust and debris from entering the cabinet when the heat exchanger is removed for servicing would have been obvious from the teaching of Koltuniak. Because screens take up a finite area the combined cross-section of the screened passage is always less than the cross-section of the corresponding unscreened passageway having the same perimeter.

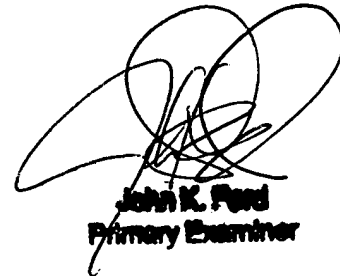
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will

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the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to John K. Ford at telephone number 571-272-4911.



John K. Ford
Primary Examiner